only American case involving the same question is *Eliot* v. *Eliot,* 77 Wis. 634, 46 N. W. 806, 10 L. R. A. 568. There the court rendered a decision directly opposed to the one here, saying: "If the plaintiff has capacity to become a party to such an imperfect and inchoate or conditional marriage he should have capacity to disaffirm it any time thereafter before it has ripened into an absolute marriage, by invoking the authority of the court to annul it under the statute." It is possible however that this decision may have been influenced a bit by a provision in the court rules for, continuing, the court says: "Again rule XXIX recognizes the plaintiff's capacity to maintain an action before he reaches that age by prescribing what the complaint shall contain if the action is thus brought." In the principal case the court cites as analagous the case of an infant's purchase of chattels, stating the law to be that such a purchase cannot be disaffirmed until majority. The analogy is proper enough, but it is opposed to the court's decision, for it is almost universally held that a purchase of goods can be avoided by the infant before he attains his majority. *Gillis* v. *Goodwin,* 180 Mass. 140; *International Text Book Co.* v. *McKone,* 133 Wis. 200; *Wuller* v. *Chuse Grocery Co.,* 241 Ill. 398.

MUNICIPAL CORPORATIONS—RIGHT OF INDEMNITY FOR DAMAGES CAUSED BY DEFECTIVE SIDEWALK.—Plaintiff municipality had been compelled to pay damages to one injured because of a defective sidewalk, and sought indemnity against the abutting property owner. The local ordinance provided that it should be the duty of such owner to keep sidewalks in repair, and if he fail, he should be given official notice to repair, and if he still fail to repair within forty-eight hours after such service of notice, it was the duty of the burgess to repair same and charge the expenses, plus twenty percent, against the property. Such notice had been served two months before the accident complained of, and neither the owner nor the municipality had repaired the defect. Defendant maintained that this constituted such contributory negligence and neglect of duty on the part of the municipality as to destroy any right of indemnity it might otherwise have had. *Held,* the owner of the property was primarily liable, and the city's failure to repair did not constitute such contributory negligence as to bar an action for indemnity. *Ashley Borough* v. *Lehigh & Wilkes-Barre Coal Co.* (Pa. 1911) 81 Atl. 442.

When a municipality pays damages for a nuisance or defects in a sidewalk, it is subrogated to the injured party's rights against the lot owner, and can recover against him. 4 DILLON MUN. CORP., Ed. 5, § 1728; *Porter* v. *Richardson,* 54 Me. 46; *Milford* v. *Holbrook,* 9 Allen 17; *Elkhart* v. *Wickwire,* 87 Ind. 77; *Taylor* v. *L. S. & M. S. Ry. Co.,* 45 Mich. 74. This general rule has been modified in the presence of statutes or ordinances like the one in the principal case. Under such ordinances, some courts have made a distinction between damage caused by wilful acts or negligence of the lot owner and damage resulting otherwise. In the former case, the city has a right of action over. *Rochester* v. *Montgomerey,* 72 N. Y. 65; *Robbins* v. *Chicago,* 4 Wall. 657, 18 L. Ed. 427; *Inhabitants of Lowell* v. *Boston & Lowell R. R. Co.,* 23 Pick. 24, 34 Am. Dec. 33. And there is no right of action over against the owner when no wilful act or negligence is shown. *Fulton* v.

Tucker, 3 Hun 529. It has been held under similar ordinances that the duty to erect and maintain a walk is a public one, and no action will lie against an adjacent owner by a person injured by the defects. His right of action is against the municipality. *Moore* v. *Gadsden,* 93 N. Y. 12; *Heeney* v. *Sprague,* 11 R. I. 456; *Keokuk* v. *District of Keokuk,* 53 Ia. 352; *Philadelphia & Reading Ry. Co.* v. *Ervin,* 89 Pa. St. 71, 33 Am. Rep. 726. There is no liability on the owner arising from the mere fact of ownership. And when the city has negligently allowed a defect in a sidewalk to remain, it has no action over against the adjacent owner for damages it has been compelled to pay. 4 DILLON MUN. CORP., Ed. 5, § 1729; *Jansen* v. *Atchison,* 16 Kan. 358. It has also been held that when there is a statutory provision that the municipality shall repair the sidewalks upon failure of the lot owner to do so on service of notice upon him, and charge the costs to the lot owner, this removes his liability for damages caused by the defect and imposes upon him only a statutory liability for the cost of repairs. The municipality cannot maintain an action against a lot owner for indemnity for damages it had to pay for injury due to the defects. 2 SMITH, MUN. CORP., § 1305; *City of Rochester* v. *Campbell,* 123 N. Y. 405, 25 N. E. 937, 10 L. R. A. 393, 20 Am. St. Rep. 760; *Hartford* v. *Talcott,* 48 Conn. 525; *New Castle* v *Kurtz,* 210 Pa. St. 183, 69 L. R. A. 488, 59 Atl. 989, 105 Am. St. Rep. 798. It is worthy of notice that the Pennsylvania Supreme Court, in arriving at the decision in the principal case, apparently decline to follow their own statement of the law as laid down in *New Castle* v. *Kurtz, supra,* and seem unwilling longer to give effect to the fact that the ordinance imposes upon the municipality as well as upon the property owner the duty to keep the walk in repair. No active or wilful negligence on the part of defendant was claimed.

MUNICIPAL CORPORATIONS—SINKING FUNDS—COMPLIANCE WITH CHARTER REQUIREMENTS.—The city of Muskegon, by a charter amendment, was authorized to borrow not to exceed $75,000 and to issue its bonds therefor to erect a municipal lighting plant, "provided, that * * * there shall be created a sinking fund for the purpose of paying the principal of the bonded debt, * * * and from the revenue received from the users of such lights a certain fixed amount, to be determined by the council, shall be paid into such sinking fund. * * * And there shall also be paid into such sinking fund, annually, from the contingent fund of said city, a certain amount to be determined by the council." In pursuance of this authority, the city passed a resolution ordering such a bond issue, redeemable in from 16 to 20 years, establishing a sinking fund, and ordering further "that from the revenue received from the users of such lights and from the contingent fund of said city there shall be paid into said sinking fund not less than $4,000 annually for each of eighteen years, and $3,000 the nineteenth year." Plaintiff, a local lighting company, sought to enjoin this issue on these grounds, among others: First, no "certain fixed sum" to be paid into said fund from the revenue of the plant is provided for as the charter requires; the resolution simply says "not less than $4,000 annually," etc., and the council may order as much more put into said fund as their uncontrolled desire may dictate. Second, conceding that